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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,143	10/14/2003	Jay S. Walker	02-040	4772

22927 7590 12/18/2006
WALKER DIGITAL
2 HIGH RIDGE PARK
STAMFORD, CT 06905

EXAMINER

LEIVA, FRANK M

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/18/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/685,143

Applicant(s)

WALKER ET AL.

Examiner

Frank M. Leiva

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 21-26, 36-40, 55 and 56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 21-26, 36-40, 55 and 56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1-6, 21-26, 36-40, and 55-56 are rejected under 35 U.S.C. 102(e) as being anticipated by LeMay et al. ("LeMay") (U.S. 6,942,574).
3. LeMay discloses a method and apparatus for providing entertainment content, such as movies, TV programming, audio programming, advertising, e-mail, stock quotes, news, and personal messaging, etc., that is of particular interest to a player on a gaming machine based on player tracking and separate player identification history. LeMay additionally discloses:
4. Regarding Claim 1: determining a message (Abstract, Figures 4-6, Column 1, lines 7-11, Column 2, lines 15-29, Column 2, line 55-Column 3, line 3, Column 3, lines 7-60, Column 4, lines 44-57, 64-67, Column 5, lines 8-12, 21-58, Column 6, lines 19-30, Column 7, lines 1-18, 26-40, Column 7, line 55-Column 8, line 21, Column 8, lines 33-44, Column 8, line 58-Column 9, line 10, Column 9, lines 26-31, 60-67, Column 10, lines

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28-35, Column 11, line 15-Column 12, line 49, Column 13, lines 45-67, and Column 14, lines 1-21);

5. identifying a game machine (Id.);
6. determining gaming activity associated with a player (Id.);
7. determining a feature of the game machine, the feature being selected based on the gaming activity, wherein the feature that may be activated based on a selection by the player (Id.); and
8. outputting the message to a player via the game machine, the message comprising a recommendation of the feature (Id.).
9. Regarding Claim 2: wherein determining the message includes determining a status message (Id.).
10. Regarding Claim 3: wherein determining the message includes determining an instructive message (Id.).
11. Regarding Claim 4: wherein determining the message includes determining a communication message (Id.).
12. Regarding Claim 5: wherein determining the message includes determining a promotional message (Id.).
13. Regarding Claim 6: wherein determining the message includes determining an activity-benefit offer (Id.).
14. Regarding Claim 21: determining a message (Id.); determining a gaming activity of a player (Id.); and outputting the message to the player via a game machine based on the gaming activity of the player (Id.).

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15. Regarding Claim 22: wherein determining the message includes determining a status message (Id.).

16. Regarding Claim 23: wherein determining the message includes determining an instructive message (Id.).

17. Regarding Claim 24: wherein determining the message includes determining a communication message (Id.).

18. Regarding Claim 25: wherein determining the message includes determining a promotional message (Id.).

19. Regarding Claim 26: wherein determining the message includes determining an activity-benefit offer (Id.).

20. Regarding Claim 36: determining a message (Id.); determining a first representation of the message and a second representation of the message (Id.); outputting the first representation of the message to a first player at a game machine (Id.); and outputting the second representation of the message to a second player at a game machine (Id.); wherein determining the first representation includes selecting a representation based upon a characteristic of the first player, and wherein determining the second representation includes selecting a representation based upon a characteristic of the second player (Id.).

21. Regarding Claim 37: wherein the first representation is different from the second representation (Id.).

22. Regarding Claim 38: determining a message (Id.); determining a first representation of the message and a second representation of the message (Id.);

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outputting the first representation of the message to a first player at a game machine (Id.); and outputting the second representation of the message to a second player at a game machine (Id.); herein determining the first representation includes selecting a representation based upon an indication by the first player, and wherein determining the second representation includes selecting a representation based upon an indication by the second player (Id.).

23. Regarding Claim 39: wherein the first representation is different from the second representation (Id.).

24. Regarding Claim 40: determining a message to be output to a player at a game machine (Id.); and suppressing output of the message, wherein suppressing output of the message includes delaying output of the message until a trigger condition is satisfied (Id.).

25. Regarding Claim 55: determining an occurrence of a trigger condition (Id.); identifying a message in a database of messages based on the trigger condition (Id.); identifying a game machine from among a plurality of game machines based on the message (Id.); suppressing output of the message until a second trigger condition is satisfied (Id.); and displaying the identified message in a partition on the identified game machine upon satisfaction of the second trigger condition, wherein the partition is a pop-up window, and wherein the identified message includes a feature recommendation (Id.).

26. Regarding Claim 56: data indicating how a result of the gaming activity would have been different if the recommended feature had been activated during the gaming activity (Id.).

Response to Arguments

27. Applicant's arguments filed 03/09/2006 have been fully considered but they are not persuasive. Do to the following reasons:

28. In regards to the argument of claims 1, 21, and 55 rejections, the teaching for outputting a message to a player via the game and the message comprising a recommendation of the feature. (See Abstract). The abstract shows a player receiving a personal messages, "that is of particular interest to the player utilizing the gaming machine", such would be the list of features available to the player.

29. In regards to the argument of claims 2-6 and 22-26 rejections, the examiner deems not persuasive.

30. In regards to the arguments to claims 36 and 38 rejections, determining multiple massaging for multiple players can be summarize in the abstract where it says "a player may receive, e-mail, stock quotes, news, and advertising", the examiner deems that these forms of messages have to be different and unique to a player for the exception of news, constituting a first massage and a second message and outputted accordingly.

31. In regards to the argument to claims 40 and 55 rejection, "suppressing output of the message" the examiner understands that inherently all messages are pre-created and held, kept, delayed or suppressed until time of transmittal or delivery. (Col 11:56-Col 12:5).

32. In regards to the argument to claim 55 rejection, "identifying a game machine from among a plurality of game machines based on the message" is covered in Col 12:1-17), where the reference says a first player sending a message to a second player, based on the information in the message the system points to a particular machine being played by the second player and transfers the message.

33. In regards to the argument to claim 56 rejection, "data indicating how a result would have been different if the feature had been activated", would be considered gambling training as such are the marketing videos in most gambling hotel resorts. These marketing messages would be available to the player in Le May et al as described in the abstract.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brossard '790, Gura '411, Walker et al. '431, Dunn '975, Falciglia '849, disclose gaming systems and methods for providing messaging and other entertainment to players at gaming machines.

34. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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FML

 12/14/06

ROBERT P. OLSZEWSKI

REVISORY PATENT EXAMINER

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